

Assembly Bill No. 464

Passed the Assembly May 9, 2013

Chief Clerk of the Assembly

Passed the Senate July 1, 2013

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2013, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 1188 and 1195 of the Civil Code, to amend Section 103526 of the Health and Safety Code, and to amend Section 210 of the Probate Code, relating to vital records.

LEGISLATIVE COUNSEL'S DIGEST

AB 464, Daly. Vital records.

Under existing law, a certified copy of a birth, death, marriage or military service record may only be supplied by the State Registrar, local registrar, or county recorder to an authorized person, as defined, who submits a written or faxed request accompanied by a notarized statement sworn under penalty of perjury that the applicant is an authorized person.

This bill would additionally authorize the request and the notarized statement to be a digitized image, as defined. The bill would remove the application of these provisions to requests for certified copies of a military service record as requests for certified copies of those records are also subject to different provisions of existing law.

Existing law authorizes proof of the execution of an instrument by certain persons and prescribes the form for that proof. Existing law authorizes the use of a specified form as a certificate for proof of execution of an instrument.

This bill would instead require the specified form to be used as a certificate for proof of execution of an instrument, and would make several changes to the form.

Existing law authorizes, if title to real property is affected by the death of a person, any person to record evidence of the death in the county in which the property is located by providing specified documents, which may include, among other things, a certified copy of a record of the death, as specified.

This bill would provide that a certified copy of a record of death includes a certified copy or informational certified copy issued by the State Registrar, local registrar, or county recorder pursuant to specified provisions.

The people of the State of California do enact as follows:

SECTION 1. Section 1188 of the Civil Code is amended to read:

1188. An officer taking the acknowledgment of an instrument shall endorse thereon or attach thereto a certificate pursuant to Section 1189.

SEC. 2. Section 1195 of the Civil Code is amended to read:

1195. (a) Proof of the execution of an instrument, when not acknowledged, may be made by any of the following:

- (1) By the party executing it, or either of them.
- (2) By a subscribing witness.
- (3) By other witnesses, in cases mentioned in Section 1198.

(b) (1) Proof of the execution of a power of attorney, grant deed, mortgage, deed of trust, quitclaim deed, security agreement, or any instrument affecting real property is not permitted pursuant to Section 27287 of the Government Code, though proof of the execution of a trustee's deed or deed of reconveyance is permitted.

(2) Proof of the execution for any instrument requiring a notary public to obtain a thumbprint from the party signing the document in the notary public's journal is not permitted.

(c) Any certificate for proof of execution taken within this state shall be in the following form:

State of California)
County of _____) ss.

On ____ (date), before me, ____ (name and title of officer), personally appeared ____ (name of subscribing witness), proved to me to be the person whose name is subscribed to the within instrument, as a witness thereto, on the oath of ____ (name of credible witness), a credible witness who is known to me and provided a satisfactory identifying document. ____ (name of subscribing witness), being by me duly sworn, said that he/she was present and saw/heard ____ (name[s] of principal[s]), the same person(s) described in and whose name(s) is/are subscribed to the within or attached instrument in his/her/their authorized capacity(ies) as (a) party(ies) thereto, execute or acknowledge executing the same, and that said affiant subscribed his/her name to the within or attached instrument as a witness at the request of ____ (name[s] of principal[s]).

WITNESS my hand and official seal.

Signature _____ (Seal)

SEC. 3. Section 103526 of the Health and Safety Code is amended to read:

103526. (a) (1) If the State Registrar, local registrar, or county recorder receives a written, faxed, or digitized image of a request for a certified copy of a birth, death, or marriage record pursuant to Section 103525 that is accompanied by a notarized statement sworn under penalty of perjury, or a faxed copy or digitized image of a notarized statement sworn under penalty of perjury, that the requester is an authorized person, as defined in this section, that official may furnish a certified copy to the applicant pursuant to Section 103525. A faxed or digitized image of the notary acknowledgment accompanying a faxed request received pursuant to this subdivision for a certified copy of a birth, death, or marriage record shall be legible and, if the notary's seal is not photographically reproducible, show the name of the notary, the county of the notary's principal place of business, the notary's telephone number, the notary's registration number, and the notary's commission expiration date typed or printed in a manner that is photographically reproducible below, or immediately adjacent to, the notary's signature in the acknowledgment. If a request for a certified copy of a birth, death, or marriage record is made in person, the official shall take a statement sworn under penalty of perjury that the requester is signing his or her own legal name and is an authorized person, and that official may then furnish a certified copy to the applicant.

(2) For purposes of this subdivision, "digitized image" means an image of an original paper request for a certified copy of a birth, death, or marriage record.

(b) (1) If the person requesting a certified copy of a birth, death, or nonconfidential marriage record is not an authorized person or is an authorized person who is otherwise unable to satisfy the requirements of subdivision (a), the certified copy provided to the applicant shall be an informational certified copy and shall display a legend that states "INFORMATIONAL, NOT A VALID DOCUMENT TO ESTABLISH IDENTITY." The legend shall be placed on the certificate in a manner that will not conceal information.

(2) If the person requesting a certified copy of a confidential marriage record is not an authorized person or is an authorized person who is otherwise unable to satisfy the requirements of subdivision (a), the official shall not release a certified copy of the confidential marriage record unless otherwise authorized by law.

(c) For purposes of this section, an “authorized person” means:

(1) For purposes of requests for certified copies of confidential marriage records, only a party to the confidential marriage.

(2) For purposes of requests for certified copies of birth, death, or nonconfidential marriage records, a person who is any of the following:

(A) The registrant or a parent or legal guardian of the registrant.

(B) A party entitled to receive the record as a result of a court order, or an attorney or a licensed adoption agency seeking the birth record in order to comply with the requirements of Section 3140 or 7603 of the Family Code.

(C) A member of a law enforcement agency or a representative of another governmental agency, as provided by law, who is conducting official business.

(D) A child, grandparent, grandchild, sibling, spouse, or domestic partner of the registrant.

(E) An attorney representing the registrant or the registrant’s estate, or any person or agency empowered by statute or appointed by a court to act on behalf of the registrant or the registrant’s estate.

(F) An agent or employee of a funeral establishment who acts within the course and scope of his or her employment and who orders certified copies of a death certificate on behalf of any individual specified in paragraphs (1) to (5), inclusive, of subdivision (a) of Section 7100.

(d) A person who asks the agent or employee of a funeral establishment to request a death certificate on his or her behalf warrants the truthfulness of his or her relationship to the decedent, and is personally liable for all damages occasioned by, or resulting from, a breach of that warranty.

(e) Notwithstanding any other law:

(1) A member of a law enforcement agency or a representative of a state or local government agency, as provided by law, who orders a copy of a record to which subdivision (a) applies in conducting official business shall not be required to provide the notarized statement required by subdivision (a).

(2) An agent or employee of a funeral establishment who acts within the course and scope of his or her employment and who orders death certificates on behalf of individuals specified in paragraphs (1) to (5), inclusive, of subdivision (a) of Section 7100 shall not be required to provide the notarized statement required by subdivision (a).

(f) Informational certified copies of birth and death certificates issued pursuant to subdivision (b) shall only be printed from the single statewide database prepared by the State Registrar and shall be electronically redacted to remove any signatures for purposes of compliance with this section. Local registrars and county recorders shall not issue informational certified copies of birth and death certificates from a source other than the statewide database prepared by the State Registrar. This subdivision shall become operative on July 1, 2007, but only after the statewide database becomes operational and the full calendar year of the birth and death indices and images is entered into the statewide database and is available for the respective year of the birth or death certificate for which an informational copy is requested. The State Registrar shall provide written notification to local registrars and county recorders as soon as a year becomes available for issuance from the statewide database.

SEC. 4. Section 210 of the Probate Code is amended to read:

210. If title to real property is affected by the death of a person, any person may record in the county in which the property is located any of the following documents establishing the fact of the death:

(a) An affidavit of death executed by a person having knowledge of the facts. The affidavit shall include a particular description of the real property and an attested or certified copy of a record of the death made and filed in a designated public office as required by law. For purposes of this subdivision, a certified copy issued in this state shall include any copy issued pursuant to Section 103525 of, subdivision (a) of Section 103526 of, or paragraph (1) of subdivision (b) of Section 103526 of, the Health and Safety Code.

(b) A certified copy of a court order that determines the fact of death made pursuant to Chapter 1 (commencing with Section 200) or pursuant to another statute that provides for a determination of the fact of death.

Approved _____, 2013

Governor